

# Exhibit D



Deposition of:  
**Anne Roberts , M.D.**

*July 7, 2017*

In the Matter of:  
**In Re: Bard IVC Filters Products  
Liability**

**Veritext Legal Solutions**

1075 Peachtree St. NE , Suite 3625

Atlanta, GA, 30309

800.808.4958 | [calendar-atl@veritext.com](mailto:calendar-atl@veritext.com) | 770.343.9696

## In Re: Bard IVC Filters Products Liability

Page 28

1 sciences -- biology, chemistry, organic chemistry,  
2 physics?

3 A Yeah, that's correct.

4 Q Then you received your medical degree in  
5 1982?

6 A Yes.

7 Q Since 1982 you've been a practicing  
8 physician?

9 A No. I did my internship in OB/GYN at  
10 Cedar Sinai at Los Angeles for a year. And then  
11 after that I went to Mass General in Boston and  
12 did my residency and fellowship there. And then I  
13 came back to San Diego in 1987 and began my  
14 practice.

15 Q But since 1982 you've dedicated your  
16 professional life to the practice of medicine in  
17 one way or another?

18 A Yes, yes.

19 Q You're not an expert in the field of IVC  
20 filter design, are you?

21 A I'm not an engineer. I have not  
22 designed an IVC filter. I have used just about  
23 every IVC filter that's ever been on the market.  
24 So I think I have a lot of experience with IVC  
25 filters using them clinically.

## In Re: Bard IVC Filters Products Liability

Page 29

1           Q     But you don't have any formal education,  
2     training, or experience in the actual design of an  
3     IVC filter, do you?

4           MR. LOPEZ:   Objection.   Form.

5           THE WITNESS:   Not specifically in terms  
6     of the design.   But in terms of the components of  
7     an IVC filter -- I think I'm very familiar with  
8     what's important in components and the use of an  
9     IVC filter and what it should do or not do when  
10    it's put into a patient.   So I think I'm very  
11    familiar with the design components that make up  
12    an IVC filter.

13   BY MR. BROWN:

14          Q     And that knowledge of the design  
15     components that make up an IVC filter comes from  
16     your clinical practice with IVC filters; is that  
17     fair?

18          A     Yes.

19          Q     You're not an expert in the tests that  
20     IVC filters have to undergo for regulatory  
21     clearance, are you?

22          A     Well, I'm familiar with -- I wouldn't  
23     say all of the tests but -- since I've been  
24     involved in the field and -- actually, my first --  
25     my first study that I did was on the Bird's Nest

## In Re: Bard IVC Filters Products Liability

Page 30

1 filter at Mass General. I spent a fair amount of  
2 time looking at what are the flow characteristics  
3 of IVC filters within the -- within an IVC.

4 And the Mass General group was  
5 interested in that. We had somebody that actually  
6 worked on those projects where we would put in a  
7 filter into a model and then do flow  
8 characteristics through that. I wasn't on those  
9 papers. But I did work with -- I'm sorry. I  
10 can't remember his name -- the person who was  
11 doing some of those studies at Mass General.

12 Q That was in the early 1980s?

13 A Yeah. It would have been probably 1985,  
14 '86 maybe.

15 Q Other than your work with the Bird's  
16 Nest filter in 1985 and 1986, which sounds like  
17 some form of bench top tests; is that right?

18 A Well, the paper looked at -- and what we  
19 did was to look at a number of filters that were  
20 available. So there was the Greenfield at that  
21 point. There was the Bird's Nest. There was the  
22 Simon Nitinol filter. You know, I -- honestly, I  
23 didn't go back and look at those -- that paper.

24 But Evanasulis (phonetic) is one of the  
25 authors. And there were a number of filters that

## In Re: Bard IVC Filters Products Liability

Page 31

1 we looked at and then did flow studies just  
2 looking at the flow going through and sometimes  
3 putting in dye to see what it did when it went  
4 through the filters.

5 Q As far as the tests that IVC filters  
6 needed to undergo from the period of 2000 to the  
7 present, would you agree that you don't have any  
8 training, education, or experience in that regard?

9 MR. JOHNSON: Form objection.

10 MR. LOPEZ: Join.

11 BY MR. BROWN:

12 Q You can answer.

13 A No formal work in terms of testing  
14 filters like that. I think that I'm aware of, you  
15 know, some of the papers that have come out that  
16 talked about fixations and talked about flow  
17 dynamics and those kinds of things. But I myself  
18 was not involved with testing the IVC filters  
19 after the time I left Mass General.

20 Q Would you agree that you're not an  
21 expert in the field of marketing?

22 MR. LOPEZ: Object to form.

23 THE WITNESS: I would probably say that  
24 most physicians do some kind of marketing. So I  
25 would say that, you know, in a very general term

## In Re: Bard IVC Filters Products Liability

Page 112

1 BY MR. BROWN:

2 Q In writing articles in the peer-reviewed  
3 medical literature, do you ever cite to opinions  
4 by paid litigation experts?

5 MR. JOHNSON: Form.

6 THE WITNESS: Excuse me?

7 BY MR. BROWN:

8 Q When you're writing article for the  
9 medical literature -- peer-reviewed medical  
10 literature or book chapters, have you ever cited  
11 to opinions by paid litigation experts?

12 MR. JOHNSON: Form.

13 THE WITNESS: I have -- no. I mean, I  
14 have no idea how that would be in context of doing  
15 a peer-reviewed article.

16 BY MR. BROWN:

17 Q In the roughly 850 or so publications  
18 and presentations that are listed in your C.V.,  
19 have you ever cited to opinions by a litigation  
20 expert?

21 MR. JOHNSON: Form objection.

22 THE WITNESS: I guess I should make sure  
23 I understand what you're asking. And you're  
24 asking have I ever taken a lawyer's opinion of  
25 a -- of --

## In Re: Bard IVC Filters Products Liability

Page 113

1 BY MR. BROWN:

2 Q No. A litigation expert's opinion. So,  
3 for example, Dr. Kessler.

4 In the context of your private practice  
5 when you're writing peer-reviewed medical  
6 literature and giving presentations, have you ever  
7 cited to anything like Dr. Kessler's report?

8 MR. JOHNSON: Form objection.

9 THE WITNESS: That's an interesting  
10 question. I -- I guess not. I mean, I don't  
11 quite -- I'm not quite sure I understand the  
12 relevance or the -- what exactly you're asking. I  
13 guess I'm a little confused about that.

14 BY MR. BROWN:

15 Q In your report in this case, you cite to  
16 the opinions of Dr. Kessler, to Dr. Ritchie, to  
17 Dr. McMeeking, to Dr. Begley (phonetic.)

18 Do you understand that all of those  
19 physicians that I just named are paid litigation  
20 experts in this litigation? Do you understand  
21 that?

22 MR. JOHNSON: Form objection.

23 THE WITNESS: Okay. Now I'm beginning  
24 to understand what your question is regarding. I  
25 would say in a peer-reviewed article you would be



## In Re: Bard IVC Filters Products Liability

Page 116

1       those references to see -- to get a feeling of how  
2       he characterized those. So I felt quite  
3       comfortable after looking at sort of the source  
4       material and looking at his report that it seemed  
5       to jive.

6               Q       But you don't know how Dr. Kessler went  
7       about identifying the documents that he chose to  
8       cite in his report, do you?

9               MR. JOHNSON: Form.

10              THE WITNESS: I have not discussed it  
11       with Dr. Kessler as to how he decided to, you  
12       know, take the documents that he talked about and  
13       put them in his report. So, no, I haven't had any  
14       discussion with him about that.

15       BY MR. BROWN:

16              Q       In all of the articles that you've  
17       written, in all of the prerequisites that you've  
18       made, have you ever cited to a paid litigation  
19       expert?

20              MR. JOHNSON: Form.

21              THE WITNESS: I don't think I've ever  
22       been in the position where I was needing to quote  
23       a litigation expert because that's not usually the  
24       kind of work that I do.

25       ///

## In Re: Bard IVC Filters Products Liability

Page 117

1 BY MR. BROWN:

2 Q So the answer is, no, you've never  
3 cited --

4 MR. JOHNSON: Form.

5 THE WITNESS: Not that I can recall.

6 BY MR. BROWN:

7 Q When you're writing stuff in the  
8 peer-reviewed medical literature and giving  
9 presentations, you cite the medical literature; is  
10 that fair?

11 A When I'm doing a peer-reviewed article,  
12 yes, I would generally cite the peer-reviewed  
13 literature and usually my own experience.

14 Q Turning to Appendix A of your report,  
15 which is facts and data considered -- we  
16 referenced this a few times -- the medical  
17 literature that's listed here -- were you given  
18 the medical literature that's listed here by the  
19 plaintiffs' lawyers?

20 A No. No. This is mostly medical  
21 literature that -- I would say generally not.  
22 This is mostly medical literature that is  
23 available on pubmed or in the journals. I'm  
24 trying to remember if there's anything in here  
25 that -- because it's data -- facts considered --

## In Re: Bard IVC Filters Products Liability

Page 139

1 is what the information was that the SIR quality  
2 improvement guidelines used as a reference for  
3 their -- for those guidelines. So if you look on  
4 page 1, it references the 2003 SIR guidelines.

5 Q Right.

6 A And this was -- this is information that  
7 they would have used with that. Sorry.

8 Q Do you know who wrote Schedule 1?

9 A Well, it's from -- it's from the SIR.  
10 It's the -- this is the way that the SIR  
11 guidelines are commonly put together is to have  
12 these -- these -- you know, when you put together  
13 guidelines, you're supposed to have the references  
14 that you've used to -- as the source data. And  
15 this would be the source data for those tables.

16 Q So you think that the SIR wrote  
17 Schedule 1?

18 A I'm not sure, honestly. I don't  
19 remember where we got this. I'm assuming that's  
20 where it comes from because this looks like what  
21 the SIR has with a lot of their -- you know, when  
22 we look at these. You know, doing this in 2003 I  
23 didn't really remember whether exactly this is  
24 what it looked like. But -- but that's where it  
25 comes from.

## In Re: Bard IVC Filters Products Liability

Page 140

1 Q So Schedule 1 I think comes from the  
2 SIR.

3 A I think it's part of -- I think it's  
4 part of the guidelines.

5 Q Did you review Schedule 1 before  
6 finalizing the report in March of 2017?

7 A You know, I don't remember.

8 Q When is the first time you remember  
9 seeing Schedule 1?

10 A Well, I saw it when I reviewed  
11 the -- when I reviewed the report, you know, over  
12 the last, you know, few days or a week or  
13 whatever. I just don't remember -- I just don't  
14 remember whether -- when before that I saw it.

15 Q If you turn 17 pages in, there's  
16 Schedule 2. It says, Bard employees testifying  
17 regarding the use of SIR article quality  
18 improvement guidelines.

19 Do you see that?

20 A Mm-hmm.

21 Q "Yes"?

22 A Yes, I do. Sorry.

23 Q Did you write this?

24 A No.

25 Q Do you know who wrote it?

## In Re: Bard IVC Filters Products Liability

Page 142

1 A Yes. Well, is this page 5?

2 Q Schedule 5.

3 A Oh. But which page? Oh, page 1 of  
4 Schedule 5?

5 Q Yes.

6 Did you write this?

7 A No.

8 Q Do you know who wrote it?

9 A No.

10 Q When is the first time you remember  
11 seeing Schedule 5?

12 A I think on the report when we were going  
13 through the report.

14 Q When was that?

15 A March.

16 Q Did you read Schedule 5?

17 A Yes.

18 Q Did you read it before or after you  
19 signed your report?

20 A Before.

21 Q If you keep turning toward the end of  
22 the document, there's a second Schedule 5 that  
23 says, Bard's internal documents demonstrating the  
24 improper use of SIR quality improvement  
25 guidelines.

## In Re: Bard IVC Filters Products Liability

Page 143

1 Do you see that?

2 A I'm sorry. What page are you on?

3 Q You have to keep turning. It's towards  
4 the end.

5 A I think so. Yeah.

6 Q Did you write the second Schedule 5?

7 A No.

8 Q Do you know who did?

9 A No.

10 Q Did you read the documents that are  
11 listed here?

12 A Did I read the documents? I think these  
13 are ones that are referenced in our references  
14 here.

15 Q If these are the documents that are  
16 referenced in Appendix A then you believe you  
17 reviewed them?

18 A I believe so.

19 Q If they're different, do you know if you  
20 reviewed those documents?

21 A I wouldn't without going back and  
22 looking at the documents themselves.

23 Q When was the first time you saw this  
24 second Schedule 5?

25 A Well, I certainly saw it when I reviewed

## In Re: Bard IVC Filters Products Liability

Page 145

1 synopsis.

2 BY MR. BROWN:

3 Q In answering my question you were  
4 referring to Appendix A?

5 A Yes.

6 Q So you said that you reviewed the  
7 documents and the deposition transcripts that are  
8 listed in Appendix A.

9 We've already discussed that, right?

10 A Right.

11 Q My question is related specifically to  
12 the schedules.

13 Did you review and rely on specifically  
14 the contents of the schedules in developing the  
15 opinions that are contained in your report?

16 A No. We went from the documents.

17 MR. BROWN: Okay. Let's go off the  
18 record.

19 THE VIDEOGRAPHER: This marks the end  
20 of Media No. 2 in the deposition of Dr. Anne  
21 Christine Roberts, M.D. Going off the record.  
22 The time is 12:55 p.m.

23 (Lunch recess.)

24 THE VIDEOGRAPHER: This marks the  
25 beginning of Media No. 3 in the deposition of

## In Re: Bard IVC Filters Products Liability

Page 225

1 MAUDE database to see what's going on and why, you  
2 know, sometimes, you know, we need to know what's  
3 going on. But, you know, I would hope, you  
4 know -- I think there have been probably some  
5 pharmaceutical companies that maybe knew there  
6 were things that were going on with pharmaceutical  
7 -- I don't know. I don't think that's the  
8 point.

9 I think the point is Bard knew. And I  
10 think that their duty was to their consumers,  
11 which were both the physicians and the patients,  
12 to say we've got a problem and we need to do  
13 something about it.

14 BY MR. BROWN:

15 Q Has any medical device company ever  
16 provided you with their internal analysis about  
17 its products?

18 MR. JOHNSON: Form objection.

19 THE WITNESS: I don't think so. I don't  
20 know. And I'm not saying that you have to  
21 give -- that Bard had to give their internal  
22 documents to anybody. I think they needed to act  
23 on their internal documents. You know, you could  
24 tell me -- you could come to me and tell me, look,  
25 we've been having a problem with the filters and



## In Re: Bard IVC Filters Products Liability

Page 230

1           Q     Are you using any written standard or  
2     authority to define what a physician's reasonable  
3     expectations are?

4           MR. JOHNSON:   Form.

5           THE WITNESS:   I suspect that reasonable  
6     is in the eye of the beholder.   So I would say  
7     that I don't believe that there is any absolute  
8     number or percentage of what reasonable would be.  
9     But I do think that we just -- that we would  
10    require that there be preclinical, animal, and  
11    laboratory bench testing of a device and that the  
12    clinical safety and effectiveness, the risk  
13    and benefits are appropriate.

14           And I think that one of the things  
15    that's an issue is that if the -- you know, it's a  
16    difficult situation.   Because if you look at the  
17    literature, it's very hard to show that filters  
18    actually prevent mortality.   And so if the -- if  
19    the device is going to cause more mortality than  
20    it may be treating, then we've got a problem.

21    BY MR. BROWN:

22           Q     My question is:   Do you have any written  
23     authority or standard that you are relying on to  
24     make the opinions that are contained in  
25     subparagraph B on page 7?

## In Re: Bard IVC Filters Products Liability

Page 231

1 MR. JOHNSON: Form.

2 BY MR. BROWN:

3 Q Do you or don't you?

4 A I do not have a written documentation of  
5 what reasonable expectations would be.

6 Q All right. Subparagraph C you write,  
7 Data that Bard possessed, including testimony of  
8 witnesses, regarding the Recovery, G2, and Eclipse  
9 IVCs. What a reasonable physician's expectations  
10 and acceptability of risks, slash, complications  
11 versus benefits were and are in view of such data  
12 whether Bard met those expectations.

13 Do you see that?

14 A I do.

15 Q Do you have any written standard or  
16 authority that you are relying on to define what a  
17 reasonable physician's expectations are regarding  
18 data that Bard possessed?

19 MR. JOHNSON: Form objection.

20 THE WITNESS: Again, I think that I do  
21 not have a written standard for reasonable in  
22 terms of physician expectation. But the idea that  
23 a patient's going to die because I've done a  
24 procedure is not acceptable.

25 ///

## In Re: Bard IVC Filters Products Liability

Page 238

1 something that physicians expect from companies.  
2 Now -- and, again, I don't think in here that we  
3 mean that you give us all of your databank. I  
4 don't think it means that we expect that you're  
5 going to tell us everything about a device. I  
6 think what it means is that if a company finds  
7 that there is a problem and that problem is such  
8 that it affects the safety and efficacy of a  
9 device, then a company has an obligation either to  
10 get that device off the market temporarily or  
11 permanently or to make sure that physicians know  
12 what it is that they're up against so that they  
13 can make good informed consent for their  
14 patients.

15 BY MR. BROWN:

16 Q All of the opinions that we just  
17 discussed and the ones you reviewed in paragraphs  
18 3, 4, 6, and 7 there's no way to test your  
19 opinion, is there?

20 MR. JOHNSON: Form.

21 THE WITNESS: Only to ask a patient or a  
22 family or the patient died and find out whether or  
23 not they think it's reasonable to know that the  
24 physician should have known about this so that  
25 they could inform their patient appropriately.

## In Re: Bard IVC Filters Products Liability

Page 239

1 BY MR. BROWN:

2 Q Any other way that you know of to test  
3 your opinions?

4 A Ask you whether you think it's  
5 reasonable or not.

6 MR. LOPEZ: Or we'll just let a jury  
7 decide maybe.

8 BY MR. BROWN:

9 Q If you got 100 doctors in the room,  
10 there's no way to tell which ones would agree with  
11 you and which ones would disagree with you?

12 MR. JOHNSON: Form.

13 MR. LOPEZ: About?

14 BY MR. BROWN:

15 Q About the opinions contained in  
16 paragraphs 3, 4, 6, and 7.

17 A Would be an interesting exercise. Maybe  
18 someone could do that study and show people this  
19 data and say, Out of 100 people that are in this  
20 room, how many people think that it would have  
21 been reasonable that the company release this data  
22 to the physicians who are implanting this device  
23 and putting, essentially, their patients at risk?

24 Q The opinions --

25 A Maybe I'll do the study.